

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.11226 of 2018

ORDER :

The petitioners are A.2 to A.6 of Crime No.720 of 2018 of Kusaiguda Police Station, Rachakonda Commissionerate, registered for the offences punishable under Section 498-A read with 34 IPC and Sections 3 and 4 of the Dowry Prohibition Act. The petitioners are impugning the very registration of the crime on the report of the 2nd respondent/*de facto* complainant, no other than wife of A.1. A.2 and A.3 are parents-in-law, A.4 and A.5 are sister-in-law and husband of sister-in-law and A.6 is brother-in-law of the 2nd respondent.

2. Notice sent to the 2nd respondent is acknowledged, failed to attend, taken as heard. Heard learned counsel for the petitioners and learned Public Prosecutor, representing the State-1st respondent and perused the First Information Report and other material on record.

3. A perusal of the First Information Report from the report of the *de facto* complainant, dated 01.10.2018, shows that her marriage with A.1 was performed, arranged through elders, on 22.08.2005 and at the time of marriage as per the demand of A.1 to A.4 Rs.20,00,000/- towards dowry, 20 tolas of gold and 300 sq. yards of site at Shamshabad besides Rs.1,00,000/- towards Aadapaduchu Lanchanams has been given and spent Rs.15,00,000/- for the marriage. After marriage herself and her husband along with her in-laws were living together. A.4 and A.5/sister-in-law and her husband

are living near Radhika X Road at Moulali and they used come at day times to the in-laws house and A.1 to A.5 with the demands to bring additional dowry were altercating with her frequently. After some days her husband got job at Delhi and they stayed for some period at Delhi and later returned back to Moulali and thereafter she gave birth to a male child. The male child born mentally challenged. Taking advantage of that her husband used to ill-treat so also by the in-laws and sister-in-law saying she is responsible for giving birth of a mentally challenged child in the wedlock and her husband used to beat and they were mentally harassing by taking this cause and by saying she is not good looking, her parents-in-law used to cooperate to her husband in harassing to leave the house despite she was putting up and pleading them for mercy. She was ultimately in the recent past necked out and for the past three months she has been staying with the mentally challenged child separately as necked out. Hence, to take action.

4. No doubt, so far as the brother-in-law of the *de facto* complainant, no other than the brother of A.1, i.e., A.6 concerned, there is no even a little whisper, but for in the last but one line of the complaint that to take action against the husband, parents-in-law, sister-in-law, sister-in-law's husband and brother-in-law (A.6) Srinivas harassed. Thus, the very crime against A.6 is not sustainable and liable to be quashed so far as P.Srinivas @ P.B.P. Srinivas concerned.

5. So far as the other accused i.e., A.2 to A.5, there is a prima facie accusation and there is nothing to quash so far as additional material filed concerned, it is left open to the petitioner Nos.1 to 4/A.2 to A.5 to submit to the Investigating Officer to consider as part of the investigation of the crime if at all it serves any defences of them or to prove their innocence.

6. With these observations, the criminal petition is allowed in part by quashing the F.I.R.No.720 of 2018 of Kusaiguda Police Station, Rachakonda Commissionerate, so far as petitioner No.5/A.6 concerned and dispose of so far as petitioner Nos.1 to 4/A.2 to A.5 with a direction to police to investigate and not to arrest, however any requirement of personal appearance of any of the accused persons for investigation and if they failed to attend, police follow Section 41-A Cr.P.C., and also the guidelines as held by the Apex Court in **Arnesh Kumar Vs. State of Bihar**¹, in the event of any requirement of arrest. The bail bonds of A.6, if any, shall stand cancelled.

Miscellaneous petitions pending, if any, shall stand closed.

15th November 2018.

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Dr. B. SIVA SANKARA RAO, J

¹ (2014) 8 SCC 273